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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,714	08/06/2001	Yasuhiro Yoshida	Q65726	8770
7590	07/01/2005		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS 2100 Pennsylvania Avenue, N.W. Washington, DC 20037			GENACK, MATTHEW W	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/921,714	YOSHIDA, YASUHARU	
	<b>Examiner</b>	<b>Art Unit</b>	
	Matthew W. Genack	2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6 August 2001</u> .	6) <input checked="" type="checkbox"/> Other: <u>Supplemental IDS</u> .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In both Claims 1 and 8, the phrases "radio frequencies for a first type of communication is" (Line 12) and "a radio frequencies for a second type of communication is" (Line 13) [emphasis added], have singular-plural noun disagreement. Examiner interprets these Claims such that the instances of "radio frequencies" are replaced with "radio frequency" in the phrases in question.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando, U.S. Patent No. 6,275,552, in view of Wiatrowski *et. al.*, U.S. Patent No. 5,806,002.

Regarding Claims 1 and 8, Ando discloses a method and system for data communications between roadside equipment and a vehicle's on board equipment using the dedicated short-range communication protocol for the purpose of collecting

tolls (Abstract, Column 6 Lines 58-67, Figs. 1 and 6). A link is established between the roadside equipment and the vehicle's on board equipment at one of a set of frequencies that may be selected from, switching between said frequencies being possible (Column 5 Lines 37-42, Figs. 2-3).

Ando does not expressly disclose searching means by which the vehicle's on board equipment searches frequencies used by the roadside equipment, wherein said searching comprises a cyclical switching of radio frequencies whereby a radio frequency for one type of communication is searched for a larger fraction of said cycle than the fraction associated with a frequency for another type of communication.

Wiatrowski *et. al.* discloses a method of priority frequency scanning by a communication unit, said communication unit capable of being associated with an automobile (Abstract, Column 2 Lines 28-35, Fig. 1). A scanning algorithm is used whereby a receiver spends time scanning a channel for one type of communication (priority) and a channel for another type of communication (non-priority) (Column 2 Lines 36-44). The scanning algorithm comprises cyclically switching between the two channels, whereby the receiver is tuned to one channel for a fraction of the cycle that is greater than the fraction of the cycle that the receiver is tuned to the other channel (Fig. 2A, during the non-priority activity period, between channel 1 and channel 3).

At the time that the invention was made, it would have been obvious to one of ordinary skill in the art to modify the invention of Ando by providing for the cyclical searching amongst frequencies transmitted by the roadside equipment, said cyclical searching involving the vehicle's receiver being tuned to a channel associated with one

type of communication for a fraction of the cycle that is greater than the fraction of the cycle that the vehicle's receiver is tuned to a channel associated with another type of communication.

One of ordinary skill in the art would have been motivated to make this modification because of the enhancement in efficiency in causing the vehicle's receiver to spend a greater period of time searching a channel associated with a type of communication that is high priority, or difficult to receive, than the period of time spent searching a channel associated with a type of communication that is low priority, or easy to receive.

Regarding Claims 2 and 9, Ando in view of Wiatrowski *et. al.* discloses every limitation of Claims 1 and 8, upon which Claims 2 and 9 depend, respectively, as outlined above. Additionally, Wiatrowski *et. al.* discloses that the communication unit of the invention may participate in both high-speed and low-speed links (Column 9 Lines 31-44).

At the time that the invention was made, it would have been obvious to one of ordinary skill in the art to further modify the invention of Ando by assigning a channel dedicated to a high-speed link to the fraction of the cycle that is greater and assigning to the other channel, dedicated to a low-speed link, the lesser fraction of the cycle (given the need for the vehicle's communication equipment to engage in a high-speed link and a low-speed link).

One of ordinary skill in the art would have been motivated to make this modification because the scanning for and establishment of a high-speed link is more

difficult than the scanning for and establishment of a low-speed link by the communication equipment in a moving vehicle.

Regarding Claims 3 and 10, Ando in view of Wiatrowski *et. al.* discloses every limitation of Claims 1 and 8, upon which Claims 3 and 10 depend, respectively, as outlined above. Additionally, discloses that the communication unit of the invention may participate in both high-speed and low-speed links (Column 9 Lines 31-44), and the practice of searching some channels more frequently than other channels (Fig. 2B).

At the time that the invention was made, it would have been obvious to one of ordinary skill in the art to further modify the invention of Ando by providing for more frequent searching of the channel associated with a high-speed link than the channel associated with a low-speed link.

One of ordinary skill in the art would have been motivated to make this modification because by searching for the channel associated with the high-speed link more frequently, there is a higher probability that said high-speed link will be initiated and the necessary information exchanged in the time before said link is eventually broken.

Regarding Claims 4 and 11, Ando in view of Wiatrowski *et. al.* discloses every limitation of Claims 1 and 8, upon which Claims 4 and 11 depend, respectively, as outlined above. Additionally, Wiatrowski *et. al.* discloses the use of various modulation types and the detection thereof by the communication unit (Column 2 Lines 28-33, Column 6 Lines 62-67, Column 7 Lines 34-41, Column 9 Lines 1-26, Fig. 4), and as a consequence, the use of various demodulation methods by the communication unit's

receiver when said receiver switches between radio frequencies associated with channels using different modulation types.

At the time that the invention was made, it would have been obvious to one of ordinary skill in the art to further modify the invention of Ando by providing for means to switch demodulation method employed by the receiver of the vehicle's communication equipment when said receiver switches frequencies.

One of ordinary skill in the art would have been motivated to make this modification because channels associated with different frequencies may use different modulation methods.

Regarding Claims 5 and 12, Ando in view of Wiatrowski *et. al.* discloses every limitation of Claims 1 and 8, upon which Claims 5 and 12 depend, respectively, as outlined above. Additionally, Wiatrowski *et. al.* discloses the division into talk groups of the channels used by the communication unit (Column 2 Lines 28-33 and 60-63, Column 9 Lines 1-26).

At the time that the invention was made, it would have been obvious to one of ordinary skill in the art to further modify the invention of Ando by dividing, *a priori*, the channels into various groups and to conduct searches by cyclically switching channels within a given group.

One of ordinary skill in the art would have been motivated to make this modification because there may be instances in which either the user or the vehicle's equipment is aware of their presence in a given short range communication zone that

only uses channels pertaining to a certain group, and the search for the proper channel may be thus expedited by only scanning channels belonging to this group.

Regarding Claims 6 and 13, Ando in view of Wiatrowski *et. al.* discloses every limitation of Claims 1 and 5 as well as 8 and 12, upon which Claims 6 and 13 depend, respectively, as outlined above. Additionally, Wiatrowski *et. al.* discloses the possibility that one talk group is identical to a second talk group (Column 2 Lines 63-67).

At the time that the invention was made, it would have been obvious to one of ordinary skill in the art to further modify the invention of Ando by providing for talk groups that overlap.

One of ordinary skill in the art would have been motivated to make this modification because of the potential for conserving the use of frequency spectrum via the reuse of channels in two or more groups (said groups associated with separate pieces of roadside equipment separated from one another geographically), which is made possible by the short range nature of the system of the invention.

Regarding Claim 7, Ando in view of Wiatrowski *et. al.* discloses every limitation of Claims 1-6, upon which Claim 7 depends, as outlined above. Additionally, Ando discloses the presence of vehicle dedicated short range communication equipment and roadside dedicated short range communication equipment (Column 6 Lines 58-67, Figs. 1 and 6).

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew W. Genack whose telephone number is 571-272-7541. The examiner can normally be reached on FLEX.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matthew Genack

Examiner

Art Unit 2645

*Matthew Genack*

17 June 2005

*RW F*  
ROLAND G. FOSTER  
PRIMARY PATENT EXAMINER